

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 587**

Introduced by Dierks, 40.

Read first time January 21, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section  
2 77-2701.16, Revised Statutes Cumulative Supplement, 2008;  
3 to exempt animal grooming by veterinarians and veterinary  
4 technicians from sales tax; to provide an operative date;  
5 and to repeal the original section.  
6 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 77-2701.16, Revised Statutes  
2 Cumulative Supplement, 2008, is amended to read:

3                   77-2701.16 (1) Gross receipts means the total amount of  
4 the sale or lease or rental price, as the case may be, of the  
5 retail sales of retailers.

6                   (2) Gross receipts of every person engaged as a public  
7 utility specified in this subsection, as a community antenna  
8 television service operator, or as a satellite service operator or  
9 any person involved in connecting and installing services defined  
10 in subdivision (2)(a), (b), or (d) of this section means:

11                   (a)(i) In the furnishing of telephone communication  
12 service, other than mobile telecommunications service as described  
13 in section 77-2703.04, the gross income received from furnishing  
14 local exchange telephone service and intrastate message toll  
15 telephone service; and

16                   (ii) In the furnishing of mobile telecommunications  
17 service as described in section 77-2703.04, the gross income  
18 received from furnishing mobile telecommunications service that  
19 originates and terminates in the same state to a customer with a  
20 place of primary use in Nebraska;

21                   (b) In the furnishing of telegraph service, the gross  
22 income received from the furnishing of intrastate telegraph  
23 services;

24                   (c) In the furnishing of gas, electricity, sewer, and  
25 water service, the gross income received from the furnishing of

1 such services upon billings or statements rendered to consumers for  
2 such utility services;

3 (d) In the furnishing of community antenna television  
4 service or satellite service, the gross income received from  
5 the furnishing of such community antenna television service as  
6 regulated under sections 18-2201 to 18-2205 or 23-383 to 23-388 or  
7 satellite service; and

8 (e) The gross income received from the provision,  
9 installation, construction, servicing, or removal of property used  
10 in conjunction with the furnishing, installing, or connecting of  
11 any public utility services specified in subdivision (2)(a) or  
12 (b) of this section or community antenna television service or  
13 satellite service specified in subdivision (2)(d) of this section,  
14 except when acting as a subcontractor for a public utility,  
15 this subdivision does not apply to the gross income received by  
16 a contractor electing to be treated as a consumer of building  
17 materials under subdivision (2) or (3) of section 77-2701.10 for  
18 any such services performed on the customer's side of the utility  
19 demarcation point.

20 (3) Gross receipts of every person engaged in selling,  
21 leasing, or otherwise providing intellectual or entertainment  
22 property means:

23 (a) In the furnishing of computer software, the gross  
24 income received, including the charges for coding, punching, or  
25 otherwise producing any computer software and the charges for the

1 tapes, disks, punched cards, or other properties furnished by the  
2 seller; and

3 (b) In the furnishing of videotapes, movie film,  
4 satellite programming, satellite programming service, and satellite  
5 television signal descrambling or decoding devices, the gross  
6 income received from the license, franchise, or other method  
7 establishing the charge.

8 (4) Gross receipts for providing a service means:

9 (a) The gross income received for building cleaning and  
10 maintenance, pest control, and security;

11 (b) The gross income received for motor vehicle washing,  
12 waxing, towing, and painting;

13 (c) The gross income received for computer software  
14 training;

15 (d) The gross income received for installing and applying  
16 tangible personal property if the sale of the property is subject  
17 to tax. If any or all of the charge for installation is free to  
18 the customer and is paid by a third-party service provider, any  
19 tax due on that part of the activation commission, finder's fee,  
20 installation charge, or similar payment made by the third-party  
21 service provider shall be paid by the third-party service provider  
22 and collected and remitted by the installer;

23 (e) The gross income received for services of  
24 recreational vehicle parks;

25 (f) The gross income received for labor for repair or

1 maintenance services performed with regard to tangible personal  
2 property the sale of which would be subject to sales and use taxes,  
3 excluding motor vehicles, except as otherwise provided in section  
4 77-2704.26 or 77-2704.50;

5 (g) The gross income received for animal specialty  
6 services except (i) veterinary services, and (ii) specialty  
7 services performed on livestock as defined in section 54-183, and  
8 (iii) animal grooming performed by a licensed veterinarian or a  
9 licensed veterinary technician; and

10 (h) The gross income received for detective services.

11 (5) Gross receipts includes the sale of admissions which  
12 means the right or privilege to have access to or to use a place  
13 or location. An admission includes a membership that allows access  
14 to or use of a place or location, but which membership does not  
15 include the right to hold office, vote, or change the policies of  
16 the organization. When an admission to an activity or a membership  
17 constituting an admission pursuant to this subsection is combined  
18 with the solicitation of a contribution, the portion or the amount  
19 charged representing the fair market price of the admission shall  
20 be considered a retail sale subject to the tax imposed by section  
21 77-2703. The organization conducting the activity shall determine  
22 the amount properly attributable to the purchase of the privilege,  
23 benefit, or other consideration in advance, and such amount shall  
24 be clearly indicated on any ticket, receipt, or other evidence  
25 issued in connection with the payment.

1           (6) Gross receipts includes the sale of live plants  
2 incorporated into real estate except when such incorporation is  
3 incidental to the transfer of an improvement upon real estate or  
4 the real estate.

5           (7) Gross receipts includes the sale of any building  
6 materials annexed to real estate by a person electing to be taxed  
7 as a retailer pursuant to subdivision (1) of section 77-2701.10.

8           (8) Gross receipts includes the sale of prepaid telephone  
9 calling arrangements and the recharge of prepaid telephone calling  
10 arrangements. If the sale or recharge of a prepaid telephone  
11 calling arrangement does not take place at the vendor's place of  
12 business, the sale or recharge shall be conclusively determined  
13 to take place at the customer's shipping address or, if there is  
14 no item shipped, at the customer's billing address. For purposes  
15 of this subsection, a prepaid telephone calling arrangement means  
16 the right to exclusively purchase telecommunications services that  
17 are paid for in advance that enables the origination of calls  
18 using an access number or authorization code, whether manually or  
19 electronically dialed.

20           (9) Gross receipts includes the retail sale of digital  
21 audio works, digital audiovisual works, digital codes, and digital  
22 books delivered electronically if the products are taxable when  
23 delivered on tangible storage media. A sale includes the transfer  
24 of a permanent right of use, the transfer of a right of use that  
25 terminates on some condition, and the transfer of a right of use

1 conditioned upon the receipt of continued payments.

2 (10) Gross receipts does not include:

3 (a) The amount of any rebate granted by a motor vehicle  
4 or motorboat manufacturer or dealer at the time of sale of the  
5 motor vehicle or motorboat, which rebate functions as a discount  
6 from the sales price of the motor vehicle or motorboat; or

7 (b) The price of property or services returned or  
8 rejected by customers when the full sales price is refunded  
9 either in cash or credit.

10 Sec. 2. This act becomes operative on October 1, 2009.

11 Sec. 3. Original section 77-2701.16, Revised Statutes  
12 Cumulative Supplement, 2008, is repealed.